

REMARKS

Claims 1-6 are pending in this application. By this Amendment, claims 15-18, 20 and 26-31 are canceled without prejudice to, or disclaimer of, the subject matter recited therein.

Entry of the amendments is proper under 37 CFR §1.116 because the amendments:

(a) place the application in condition for allowance for the reasons discussed herein; (b) do not raise any new issue requiring further search and/or consideration as the amendments merely cancel the rejected claims and retain the previously allowed claims 1-6; and (c) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection. Entry of the amendments is thus respectfully requested.

I. Preliminary Matters

Applicant notes with appreciation the allowance of claims 1-6 as indicated by the November 15, 2006 Office Action, for example.

After receiving allowance of claims 1-6 (i.e., after closing of prosecution with respect to these claims), Applicants received a Restriction Requirement between a species I identified only by disclosure on Applicants' pages 27-28, and species II identified as previously examined claims 16-20 and newly added claims 26-31. Claim 15 previously withdrawn and allowed claims 1-6 were not identified.

In response, Applicants elected species II, claims 16-20 and 26-31 (the remaining pending claims to be examined) and agreed to cancel previously withdrawn claim 15.

However, the September 8, 2008 Office Action improperly withdraws previously allowed claims 1-6 in addition to claim 15. As indicated in a January 7 telephone message to the newly assigned Examiner Garcia, this is improper as prosecution was already closed with respect to allowed claims 1-6, and these claims were never expressly subject to the restriction requirement. Thus, claims 1-6 remain pending and allowed.

II. Pending Claims 1-6 Define Patentable Subject Matter

The Office Action rejects claims 16-18, 20 and 26-31 under 35 U.S.C. §103(a) over U.S. Patent No. 5,287,434 to Bain. This rejection is respectfully rendered moot by cancellation of the rejected claims. At least for these reasons, Applicant respectfully requests withdrawal of the rejection.

In view of the foregoing, only previously allowed claims 1-6 remain pending. Therefore, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-6 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Stephen P. Catlin
Registration No. 36,101

JAO:SPC/hms

Attachment:
Petition for Extension of Time

Date: January 8, 2009

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
--